

JUDGE JAMES L. ROBERT
Trial Date: February 16, 2021

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

MEGAN SCARLETT, individually,

Plaintiff,

vs.

"JOHN DOE" (EMPLOYEE NO. 1), and
"JANE DOE," employed by SWISSPORT
CARGO SERVICES, L.P.; and SWISSPORT
CARGO SERVICES, L.P., a foreign limited
partnership, doing business in Washington
State, SWISSPORT FUELING, INC., and/or
SWISSPORT U.S.A., INC., and "DOE"
CORPORATION NO. 1,

Defendants.

No. 2:19-cv-1418-JLR

ORDER REGARDING DEFENDANTS'
MOTION FOR RULE 35
EXAMINATION

This matter came before the Court on Defendants' motion to compel the Rule 35 examination of Plaintiff. The Court held a hearing on August 6, 2020 regarding the motion. Jeff Sbaih appeared for the Defendants and Paul Lindenmuth appeared for the Plaintiff.



1 Based on the submissions and arguments of the parties, IT IS HEREBY ORDERED:

2 1. Defendants' motion to compel the Rule 35 exam of Plaintiff is GRANTED. The
3 court finds that Plaintiff's physical condition is in controversy, that Dr. Alan
4 Brown is suitably licensed or certified, and that Defendants has shown good cause
5 to conduct the examination.
6

7 2. Plaintiff is ordered to appear for the exam with Alan Brown, M.D. on August 13,
8 2020, beginning at 1 p.m. at 7808 Pacific Ave #6 Tacoma 98408. Accompanying
9 Dr. Brown for the exam may be assistant Susan Sauls. No one else may attend the
10 exam.

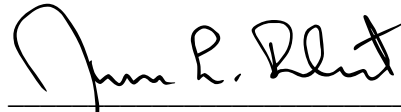
11 3. The exam will be conducted subject to these terms:

- 12 a. No liability questions will be asked during the exam;
13 b. Any paperwork to be completed by Plaintiff will be provided to Plaintiff's
14 counsel one day before the exam;
15 c. Defense counsel may not attend the exam;
16 d. No x-rays or other radiographs may be obtained during the exam;
17 e. No physically painful or intrusive procedures should be utilized; and
18 f. Dr. Brown shall comply with Centers for Disease Control ("CDC")
19 precautions to prevent the transmission of coronavirus 19 ("COVID-19")
20 during the exam.
21

22 4. Plaintiff's request to videotape the exam is DENIED.

23 5. To the extent the deadline for expert disclosures on August 20, 2020 is
24 unworkable, the parties are encouraged to meet and confer and to submit a
25 stipulation for a modest extension of that deadline for the Court's consideration.
26

1 DATED this 13th day of August, 2020.

2
3 

4 JUDGE JAMES L. ROBART

5
6 Submitted by:

7 s/ Jeff M. Sbaih

8 Maria E. Sotirhos, WSBA No. 21726

9 Jeff M. Sbaih, WSBA No. 51551

10 WILSON SMITH COCHRAN DICKERSON

11 901 Fifth Avenue, Suite 1700

12 Seattle, WA 98164

13 Phone: (206) 623-4100 / Fax: (206) 623-9273

14 Email: mailto:sotirhos@wscd.com; sbaih@wscd.com

15 *Attorneys for Defendants*

16
17 s/ Paul A. Lindenmuth

18 Paul Alexander Lindenmuth, WSBA No. 15817

19 BEN F. BARCUS & ASSOCIATES PLLC

20 4303 Ruston Way

21 Tacoma, WA 98402-5313

22 Phone: 253-752-4444

23 Fax: 253-752-1035

24 Email: Paul@benbarcus.com

25 *Attorneys for Plaintiff*

CERTIFICATE OF SERVICE

The undersigned certifies that on the below date I electronically filed the foregoing with the Clerk of the United States District Court using the CM/ECF system, which will send notice of the electronic filing to the following counsel of record:

Attorney for Plaintiff:

Paul Alexander Lindenmuth, WSBA No. 15817

BEN F. BARCUS & ASSOCIATES PLLC

4303 Ruston Way

Tacoma, WA 98402-5313

Phone: 253-752-4444

Fax: 253-752-1035

☐ Via U.S. Mail

☐ Via Email

☐ Via Legal Messenger

☒ Via CM/ECF

SIGNED this 12th day of August, 2020, at Seattle, Washington.

s/Mark Gockley

Mark Gockley

Legal Assistant

